



SAN JOAQUIN RIVER CONSERVANCY

Agenda Item

Item G-1

December 13, 2017

TO: San Joaquin River Conservancy Governing Board

FROM: Melinda S. Marks, Executive Officer

SUBJECT: Consider and Take Action on Approval of the River West Fresno, Eaton Trail Extension Proposed Project or Alternative 1 or Alternative 5B, Including Adoption of Findings and Mitigation Monitoring and Reporting Program

RECOMMENDATION:

On November 15, 2017, the River West Fresno, Eaton Trail Extension Final Environmental Impact Report (Final EIR; State Clearinghouse No. 2014061017) was certified by the Board through adoption of Resolution 17-01 in accordance California Environmental Quality Act (CEQA) Guidelines Section 15090 (Exhibit 1). After providing an opportunity for public comment, it is recommended the Board, the lead agency for the proposed River West Fresno, Eaton Trail Extension Project consider and take action to:

- Approve the proposed Project through approval of Resolution 17-02(PP); or,
- Approve Alternative 5B (inclusive of the proposed Project features) through approval of Resolution 17-02(Alt. 5B); or,
- Approve Alternative 1 (also inclusive of the proposed Project features) through approval of Resolution 17-02(Alt. 1).

Each resolution includes attachments presenting the necessary Findings of Fact and Mitigation Monitoring and Reporting Program specific to the proposed Project, Alternative 1, or Alternative 5B, respectively, to satisfy the requirements of CEQA Guidelines Sections 15091, 15092, and 15097. Staff recommends at the very least the Board approve the proposed Project through approval of Resolution 17-02(PP) and its attachments, if not through approval of resolutions supporting either Alternative 1 or Alternative 5B, both of which are inclusive of the proposed Project features.

PUBLIC HEARING AND BOARD DELIBERATIONS:

It is recommended the Board conduct the meeting as follows:

1. Staff Presentation
2. Initial Board Questions and Staff Responses

3. Board Chair Opens Public Comment—Speakers shall be limited to a maximum of 3 or fewer minutes each, as necessary to provide all interested parties the opportunity to comment. Since the Board received at the November 15, 2017, meeting many hours of testimony on the merits of the project and alternatives, commenters are encouraged to focus on new information or issues presented or arising at the December 13, 2017, meeting.
4. Board Chair Closes Public Comment
5. Board Deliberations, Motion, and Vote

SUMMARY:

After receiving comments and deliberating possible actions at the November 15, 2017, meeting, the Board deferred approval of a project until the December 13, 2017, Board meeting and directed staff to provide the documentation necessary for the Board to approve either Alternative 1 or Alternative 5B. The Board indicated that for each option, the Board would like to ensure reasonable progress is made toward implementing the selected project, and if such progress is not made, the Board would reconsider other alternatives. The attached sets of documentation, consisting of a resolution of approval, Findings, and Mitigation Monitoring and Reporting Program in each set, allow the Board the discretion to approve either:

The Proposed Project. The core elements of the project which would provide a 2.4-mile extension of the existing Lewis S. Eaton multi-use trail, a public vehicle entrance and 50-space parking lot at Perrin Avenue, pedestrian and bicycle access from four locations in the city of Fresno, and pedestrian hiking trails to the riverbank. The certified Final EIR found that the proposed Project would have less than significant environmental impacts for all resource topics with incorporation of the identified mitigation measures. The Resolution of Approval for the proposed Project, Resolution 17-02(PP) includes CEQA Findings of Fact Attachment A(PP), and the Mitigation Monitoring and Reporting Program Attachment B(PP). The resolution would direct Conservancy staff to continue to work toward resolving implementation issues associated with Alternative 1 and Alternative 5B, and to periodically report progress to the Board.

Alternative 1, Added Parking. Alternative 1 includes the elements of the proposed Project, with an additional public vehicle entrance at West Riverview Drive in Fresno, an access roadway, and parking for 40 vehicles in the middle of the project site, with a connection to the trail extension. The Final EIR found that Alternative 1 would have less than significant environmental impacts for all resource topics with incorporation of the identified mitigation measures, with the exception of a traffic impact identified for the intersection of Audubon Drive and Del Mar Avenue. The EIR provided the option to condition the approval of this alternative upon the Conservancy proceeding with this entrance at Riverview Drive and additional parking lot features only after an appropriate traffic control, designed by the City of Fresno for the Audubon Drive and Del Mar Avenue intersection, has been installed, or, proceeding with Alternative 1 without this condition, which would require a Statement of Overriding Considerations and a rejection of other alternatives that could reduce impacts.

At the November 15 meeting a motion was made and seconded to prepare a resolution, Findings, and a Statement of Overriding Considerations for the Board to consider approval of Alternative 1. Ms. Alvis, the motion maker, subsequently contacted staff to

December 13, 2017

Agenda Item: G-1

Page 2

make it clear the motion was intended to establish in a Statement of Overriding Considerations grounds for approval of Alternative 1 without conditioning it on prior installation by the City of Fresno of a traffic signal, recognizing that the alternative will potentially result in significant and unavoidable impacts, acknowledging the benefits of proceeding with the alternative, and identifying the infeasibility of other alternatives. Since the Board's discussion of the motion was somewhat disjointed, ambiguous, and subject to interpretation, staff prepared the attached Resolution of Approval for Alternative 1, Resolution 17-02(Alt. 1) with Findings of Fact and a Statement of Overriding Considerations in Attachment A(Alt. 1), as well as the Mitigation Monitoring and Reporting Program Attachment in Attachment B(Alt. 1). The resolution would direct Conservancy staff to continue to work with the City of Fresno regarding issues that need to be resolved to develop a traffic signal or other effective traffic control measure in the future.

Alternative 5B, North Palm Access. Alternative 5B includes the elements of the proposed Project, with an additional public vehicle entrance at North Palm Avenue (Spano Park) in Fresno, an access roadway descending the bluff, and parking for 40 vehicles at the western end of the project site, with a connection to the trail extension. The Final EIR found that Alternative 5B would have less than significant environmental impacts for all resource topics with incorporation of the identified mitigation measures. The Resolution of Approval for Alternative 5B, Resolution 17-02(Alt. 5B) includes Findings of Fact Attachment A(Alt. 5B) and the Mitigation Monitoring and Reporting Program Attachment B(Alt. 5B). The resolution would direct Conservancy staff to work with the City of Fresno, the affected landowner, and regulatory agencies regarding issues that need to be resolved to develop Alternative 5B's additional vehicular entrance and parking lot. The resolution also includes in its order that staff shall to provide periodic status reports to the Board at future public meetings, and if, in the Board's sole discretion, reasonable progress is not made toward implementing Alternative 5B within one year of approval, the Board by majority vote may direct staff to evaluate and prepare the appropriate documentation to consider approval of Alternative 1, and rescind approval of Alternative 5B.

Staff and legal counsel will be prepared to assist the Board with appropriate amendments to the resolutions, findings, and mitigation monitoring and reporting program if any revisions are necessary to facilitate project approval.

DISCUSSION:

References

Please see the November 15, 2017, staff report for Agenda Item G-1, *Consider and Take Action on: 1. Certification of the River West Fresno, Eaton Trail Extension Environmental Impact Report, and 2. Approval of the Project or an Alternative, Including Adoption of Findings and Mitigation Monitoring and Reporting Program*, and the Final EIR Executive Summary distributed with that staff report for additional, detailed information relating to the Board's proposed actions. Please see the Final EIR for the detailed evaluation of the proposed Project and alternatives, comments and responses to comments received during the two public comment periods, and technical studies. All project documents are available at www.sjrc.ca.gov.

The proposed Project is described in detail in Chapter 2 of the Final EIR. The evaluation of the potential environmental impacts of the proposed Project are evaluated in Chapter 3. A summary of the mitigation measures recommended to reduce the environmental impacts of the proposed Project to less than significant levels is provided in Chapter 1, the Executive Summary (provided with the November 15 staff report). A description of the action alternatives and an evaluation of their potential environmental impacts are presented in Chapter 5. At the end of Chapter 5 there is a chart and narrative comparing the impacts of the proposed Project and all alternatives.

New Issues Raised in Comments, Letters, and Board Deliberations Associated with the November 15, 2017, Board Meeting

Comments and Questions Related to the Steps Required for Project Implementation and Timeframes

What would be the tasks and timelines to implement the project, including the various alternatives?

The following describes in brief the required tasks. The timeframes to accomplish the tasks are uncertain, but explored herein to provide perspective. Tasks and timeframes common to all projects, such as funding authorizations, routine permits, and contracting, are not addressed.

Develop Long-Term Operations and Maintenance Commitments

After approving the project or an alternative, actions to authorize funds for implementation (engineering and eventual construction) would be made in the future, and would be dependent on development of a long-term operations, management, and maintenance partner and funding source. A few funding sources and partnerships are possible to secure operations and maintenance funding.

The City of Fresno, the operator of the existing Eaton Trail, is the most likely partner for future operation of the new trail facilities at River West and its residents stand to benefit the most from the State's investment in the Parkway within the city. The City has been actively involved in the scope and design of the project, first as a grantee that scoped and designed the project and the first four alternatives, subsequently by encouraging the evaluation of off-site alternatives at the base of the Palm/Nees private access road (resulting in Alternative 5), and later as the funding source for the Partially Revised Draft EIR and evaluation of Alternative 5B.

Under any of the scenarios, the Conservancy must re-initiate discussions with the City to identify long-term operations and maintenance resources for the approved project. Some of the funds could be made available from the City's Measure C funds for trail maintenance; however, these funds would not be adequate for all of the required services or for the tenure of the project. User fees and a concession agreement could provide for some funding and services; however, it is unlikely they could sustain full-time operations, nor would user fees normally be collected from walk-in/bicycle-in trail users. Other possible partners may also be involved in supporting project operations. Without long-term (30-year) operations and maintenance resources and commitments of the City

and other possible partners, the Conservancy would not invest in engineering, permitting, or construction. In early 2018, the Board will receive information and presentations by groups advocating for, surveying for public acceptance, and developing a local tax measure to support regional park development, operations, and programs.

Development of Capital Improvements

Provided long-term operations and maintenance funding is secured, the current balance of Conservancy funding from State bond acts is approximately \$29 million, which is at least enough to construct the proposed Project (estimated +/- \$4 million), plus some of the other high-priority acquisitions and projects unrelated to River West planned by the Conservancy. The Conservancy Board and the Wildlife Conservation Board together have the discretion to allocate bond funds to specific Conservancy acquisitions and projects. Depending on the Board's priorities, the current funding would be adequate to complete engineering, permitting, and constructing the proposed Project elements as an initial phase, and complete the more expensive added improvements of the alternatives (\$2.5 to \$5.2 million, see detail below) in future phases.

The Conservancy would need to either secure a grantee, such as the City of Fresno, to design and construct the project, or could itself contract with the Department of General Services (DGS) to design and construct the project. The added costs of DGS services have not been built into the estimates provided herein. All grants or funding agreements to construct projects require a commitment to provide operations and maintenance for 30 years.

Tasks to Develop Alternative 1

Although the Findings prepared for Alternative 1 does not condition or require a traffic signal at Audubon Dr. and Del Mar Ave. to be installed, the resolution directs staff to work with the City to secure eventual installation of the signal. The City of Fresno does not have immediate plans to install the traffic signal. The traffic improvement is reportedly 54th on the City's priority list, and on average six such prioritized improvements are constructed each year; this schedule could be accelerated if the Conservancy included the mitigation measure and advanced funding for the signal, with subsequent reimbursement from the City. The City reports that it has adequate right of way to install the light; therefore, acquisition and eminent domain may not be necessary. As noted below, the City states that a General Plan amendment may be required for the Conservancy to participate in cost-sharing for the traffic signal. The Conservancy's inability to itself immediately implement the traffic signal as mitigation for the project is why Resolution 17-02 (Alt. 1) establishes in a Statement of Overriding Considerations grounds for approval of Alternative 1 without conditioning it on prior installation of the signal by the City of Fresno.

For Alternative 1, the existing access road would only serve as the starting point for design and construction of a new entrance and paved and improved road to the new parking lot location. These steps would not be avoided by selecting Alternative 1 over other options.

Tasks to Develop Alternative 5B

Alternative 5B includes an 11-acre private parcel of land known to contain construction wastes from past disposal practices. The parcel would become the location of the parking area and multi-use trail connection. The Conservancy itself performed a limited Phase 2 subsurface investigation (ca. 2002) of the parcel and confirmed the presence of these wastes.

A new nonprofit public benefit corporation, the San Joaquin River Access Corporation (SJRAC), has entered into an option agreement to purchase the approximately 11-acre private parcel on which the Alternative 5B parking area would be located in order to facilitate implementation of Alternative 5B. Their proposal and information is provided in Exhibit 2. They have contacted the Fresno County Health Department (the Local Enforcement Agency for State regulations related to solid wastes), and intend to develop and secure approval of a post-closure land use plan for the parcel. They intend to maintain the underlying ownership over the long term, and do not expect the public agencies to take ownership or otherwise become responsible parties. As of the date of this staff report, it is envisioned by the SJRAC that the County would consider approval of a post-closure land use plan for a parking area on the subject property, provided 2-5 feet of clean fill soil was placed on the parking area, and drainage was properly directed away from the construction wastes. The concept of bringing in clean fill has been included in the City's 30% design for Alternative 5B. The timeframe to develop a post closure land use plan, secure regulatory approval, and implement the plan is dependent on the actions of others, but is not expected to be prolonged.

The County of Fresno, Department of Public Health, Environmental Health Division provided the following information in an email to Conservancy staff dated December 7, 2017:

The parcel has had an assessment completed by Kleinfelder in 2004. Results of their study confirm prior knowledge of this parcel as containing only inert debris; concrete and asphalt. No landfill gas was found during the Kleinfelder investigation. Environmental Health Division research and knowledge of the site also indicates only inert debris was disposed of within this parcel. With only inert debris, landfill gas is not expected to be an issue. Leachate is also not considered an issue due to no organics being disposed of within this parcel.

This parcel has a final landfill cover in place, no additional cover/cap is required at this time. Digging into or affecting the final cover is not being proposed. Addition of soils and asphalt parking areas over the existing landfill cover is being proposed. The addition of cover soil will in effect reduce the permeability of the cover materials in the landfill area. An engineered design must address future runoff and/or retention of precipitation.

The County recognizes that this conceptual design and post closure land use plan has been submitted for review, but it is our understanding that San Joaquin River Access Coalition (SJRAC) is not the current owner of the property.

[County responses to Conservancy questions follow]

1. To what extent did the SJRAC receive guidance from the County to form the basis of their proposal? They indicate they have discussed requirements with County Staff, and have not secured consulting services to this point.

On November 16, 2017 Janet Gardner received a telephone call from Barry Bauer concerning a conceptual parking lot on the proposed parcel and regulatory requirements (Title 27, California Code of Regulations (CCR)). Based on the telephone call, we provided regulatory assistance, and information about a similar project at the Nielson Avenue Disposal Site. Our Division received a *Conceptual Design and Post Closure Land Use Plan* (Conceptual Plan) proposal dated November 27, 2017, from SJRAC on Wednesday, November 29, 2017.

2. The proposal includes the “addition of 2 to 5 feet of cover soils” and the development of drainage swales. Does the County staff envision that the cover will need to achieve and maintain a particular impermeability standard, will drainage need to be conveyed off-site, will irrigation be prohibited, etc?

Additional information will be required prior to approval, a specific plan and engineered design is required. The specific plan and engineered design must address soil placement, drainage and erosion control, paved areas, landscape areas, and long term maintenance of the parcel in compliance with Title 27 CCR.

3. Do you anticipate Phase 2 subsurface investigations will be necessary before you can approve a post closure land use plan?

No. The February 6, 2004, Kleinfelder “Report of Findings – Landfill Assessment and Installation of Landfill Gas Monitoring Probes, Spano River Ranch Property...” we believe is adequate for this project as proposed.

4. What other regulatory agencies must approve the post closure plan?

The City of Fresno, Regional Water Quality Control Board and the Air Pollution Control District (Title 27 CCR 21190(c)). Based on the Kleinfelder report and local topography (proximity to the river and shallow groundwater) there is no evidence of the presence of landfill gas on this parcel; therefore, the Air Pollution Control District may not respond.

5. Under normal circumstances, how long do you think it will take to confirm the approach and approve the conceptual plan? How long will it take to approve the proposed improvements: the parking area, landscaping and irrigation, restroom, etc.?

We are preparing comments and anticipate a response will be provided before the end of the day, December 8, 2017. Once an engineered design plan is submitted, 30 to 60 days depending on coordination with the City of Fresno’s construction plan review.

6. Do you anticipate any long-term surface, subsurface, or water quality monitoring requirements? Do you anticipate requirements to determine if there is leachate at this time, or to require monitoring for leachate in the future?

No, and No.

7. Are there any steps that the SJRAC or I have not taken into consideration?

The final engineered design should address all regulatory requirements. The Regional Water Quality Control Board may require additional information.

The City of Fresno owns Spano Park and the bluff face. Its participation in Alternative 5B would be necessary to help accelerate designs and approvals for elements occurring on City property, including securing a variance from the Bluff Protection Overlay District.

Comments and Questions Related to Alternative 1

What improvements would be required to provide public vehicle access at Riverview Drive? Is the existing roadway adequate to provide public vehicle access?

The Riverview Drive entrance would require an improved entrance gate, curb, gutter, and drainage, a 30-foot wide paved and striped access road approximately 0.5 miles long into the central portion of the site, a paved and landscaped parking area with a vault toilet restroom, grading and road base, site stabilization, and irrigation improvements for landscaping the parking area (shade and aesthetics), along with other amenities described in Chapter 5 of the Final EIR. The restroom must be located above the 100-year floodplain elevation or fill must be used to elevate it one foot above the floodplain. The existing private road (private access easement on the Conservancy property) could be improved for shared vehicle use to the mid-point of the bluff; at that point the new public access road would veer to the southwest and into the site, and the existing private road would continue to the north. Controls, such as a new automated gate, would be needed to prevent visitors from proceeding onto the private portion of the road leading to the two residences that are surrounded by the project site.

What are the costs of the added access improvements for Alternative 1?

Since the time of the Board meeting, City of Fresno engineers provided a detailed cost estimate for the proposed Alternative 1 access improvements, based on the preliminary design (10%). The estimated cost is approximately \$2.0 million, plus the possible proportionate cost contribution to the City's traffic signal estimated to be \$80,000 or less. Further refinements in these estimates may be made prior to the Board meeting.

Could the State advance to the City the funds necessary to construct the traffic signal to mitigate the impacts of Alternative 1, and thus accelerate implementation of this mitigation measure, and enter into a development agreement to receive reimbursement for the cost in excess of the State's share?

The Department of Finance representative on the Conservancy Board indicated this would be possible. As of the date of this report, there has not been time for further inquiry. The City has indicated the costs of the traffic signal is estimated at \$461,150 (current costs).

If the traffic signal at the intersection of Audubon Dr. and Del Mar Ave. is installed, what will be the improvement in the traffic service level?

Per the Final EIR, at full project buildout the intersection is expected to operate at Level of Service E without the traffic signal; with the traffic signal operations would improve to Level of Service B.

Since public vehicle access to the project site via Riverview drive is constrained by a policy in the City of Fresno General Plan, would the City of Fresno require the Conservancy to apply for and secure a General Plan amendment in order to contribute to funding the traffic signal necessary to immediately mitigate the traffic impacts of Alternative 1?

As discussed in the Final EIR, the Conservancy has the authority to determine the land use and improvements on State-owned lands under its jurisdiction. However, the Conservancy would need to rely upon the City to implement the traffic signal off-site to mitigate the traffic impacts of Alternative 1 to a less than significant level. The Conservancy proposes to participate in funding the traffic signal and could possibly to advance funding for the signal with future reimbursement to mitigate the traffic impact. Another City policy requires that any legislative action of the City Council must be consistent with the General Plan. Therefore, to the extent that any contract, reimbursement agreement, or other approval to construct the traffic signal has a nexus to the Conservancy's proposed use of Riverview Dr. and is subject to a discretionary decision of the Council, the City may require the Conservancy to apply for a General Plan amendment. This amendment would be discretionary and could be denied.

The City of Fresno's public access easements on the private road leading from the intersection of Palm and Nees avenues contain requirements that the easements may only be used to provide public access to the project site to the same extent as Riverview Drive provides access. If the Board does not approve Alternative 1 will it nullify the easements?

The easements would remain in effect and could be exercised by the City. If Riverview Drive provides walk-in and bicycle access to the project site, as would be the case for the proposed Project and Alternative 5B, the access easements would allow for walk-in and bicycle access.

A comment stated that the EIR's conclusion regarding Alternative 1 traffic impacts is not supported by the evidence in the document. The commenter states the traffic levels under Alternative 1 will not exceed Level of Service (LOS) C, which is an acceptable level of service.

This comment confuses the roadway segment analysis with the intersection analysis. Roadway segments under the existing and future with Alternative 1 conditions operate at LOS C, which is an acceptable level of service. For intersections, however, the traffic analysis found the unsignalized intersection at Del Mar Avenue and Audubon Drive is anticipated to operate at LOS E during the AM peak hour and F during the PM peak hour under Alternative 1. (See Appendix HH.) A July 2011 traffic signal warrant study conducted by the City of Fresno found that intersection satisfied warrants for 8-hour, 4-

hour, and peak-hour traffic. The increased number of cars under Alternative 1 would increase the wait time at the intersection. Under the *City of Fresno Traffic Impact Study Report Guidelines* for use in CEQA project review (Appendix H), a significant impact occurs if additional traffic from the project would increase the average delay for a study intersection that is already operating at an unacceptable LOS. Therefore, the Final EIR concluded the additional traffic caused by Alternative 1, which would increase the wait time at the unsignalized intersection at Del Mar Avenue and Audubon, would result in a potentially significant impact. The Final EIR also concluded the additional traffic at this unsignalized intersection may result in accidents.

Comments and Questions Related to Alternative 5B

It was announced at the Board meeting that a new nonprofit was formed to facilitate Alternative 5B. The Board requested additional information.

Staff requested the organization to provide the articles of incorporation, option agreement for the private property, and a conceptual proposal describing the group's intent. This information is provided in Exhibit 2. In short, the organization, the San Joaquin River Access Corporation, has entered into an option agreement to purchase for \$100.00 the approximately 11-acre private parcel on which the Alternative 5B parking area would be located. They have contacted the Fresno County Health Department (the Local Enforcement Agency for State regulations related to solid wastes), and intend to develop and secure approval of a post-closure land use plan for the parcel. They intend to maintain the underlying ownership over the long term, and do not expect the public agencies to take ownership or otherwise become responsible parties. As of the date of this staff report, it is envisioned by the SJRAC that the County would consider approval of a parking area on the subject property (i.e., the post-closure land use), provided 2-5 feet of clean fill soil was placed on the parking area, and drainage was properly directed away from the underlying construction wastes. Staff will attempt to get additional information and conceptual guidance from the County prior to the Board meeting.

A comment stated that Alternative 5B would bifurcate Spano Park and significantly impact the recreational value of that park.

The impacts of Alternative 5B on recreation, including impacts to Spano Park, are discussed in Section 5.11.18 of the Final EIR. Spano Park, which is currently 1.13 acres, is used as a vista point, with picnic tables, benches, and irrigated turf and shade trees. The road access for Alternative 5B would occur on the western edge of the park and not divide the public use area. Under Alternative 5B, the usable park area would be reduced to 0.89 acres. The project would include restoration of the landscaping, tables, and benches. The current function of the park would be restored, and the alternative would result in an added public vehicle and bicycle access point for the project area, consisting of approximately 458 acres of public open space. Therefore, the Final EIR found that recreational impacts from Alternative 5B would be less than significant.

If the Board approves Alternative 5B, would there also be a traffic impact at the Del Mar Ave. and Audubon Dr. intersection due to visitors making use of the walk-in/bicycle access to the project site at Riverview Dr.?

The proposed Project and each of the additional public vehicle access alternatives are designed to provide on-site parking adequate to serve the visitors arriving by vehicle, while protecting the open space and natural resource values of the site. Any of the on-site parking alternatives improve parking capacity relative to existing conditions where the public accesses the existing Eaton and Bluff trails as pedestrians, bicyclists, or by vehicle with on-street parking. Once the project is opened to the public, visitors arriving by vehicle are expected to take advantage of parking in near proximity to the trail extension, the river, and the low-impact recreational amenities, while visitors arriving by bicycle and on foot may access the site via the Riverview Dr. and Churchill Ave. entrances to the existing Bluff Trail.

A comment stated that Alternative 5B would require new road facilities, which would result in significant impacts that were not adequately discussed in the EIR.

The EIR provides sufficient detail to inform the decision-makers and public about the impacts associated with Alternative 5B and the other alternatives. The Alternative 5B analysis was based on a 30% design level, whereas the analysis for the other alternatives are based on a 10% design (adequate for CEQA reviews), so more detailed information is provided for Alternative 5B than the other alternatives. Figure 5-18 in the Final EIR illustrates the road alignment, location of the slope cut, elevation and ultimate slope aspect ratio after grading. Appendix I2 of the Final EIR contains a feasibility report (Palm Bluffs River Access Schematic Design Report), which includes development assumptions such as volume of earthwork required for roadway excavation (4,066 cubic yards) and compacted fill along the slope (18,608 cubic yards). The analysis acknowledges that noise could expose sensitive receptors to levels considered significant, but application of mitigation Measure Noise-1 would reduce these potential impacts. Similarly, the evaluation also notes that air emissions during construction could be greater than the proposed project as more construction activity and earth movement is required. Table 5.11-3 provides the estimated emissions from construction equipment and finds that the alternative would not exceed thresholds of significance for any of the criteria air pollutants. All impacts for Alternative 5B were fully disclosed and would be mitigated to less-than-significant levels through the adoption of feasible mitigation measures and application of best management practices identified in the Final EIR.

A comment stated Alternative 5B would result in the removal of a stand of mature sycamore trees that host nesting birds, and the EIR's proposed mitigation for this impact does not reduce this impact to a less than significant level.

The five trees that would be removed under Alternative 5B are located along the manufactured bluff face created by landfill operations. The study area along the alignment of Alternative 5B is predominantly disturbed land that was reclaimed from landfill and gravel mining operations (see Section 5.11.2, "Past Land Uses"). The original

bluff face, floodplain, and hydrologic regime have been substantially modified from natural conditions over a period of many years, such that the five trees that would be removed under Alternative 5B are showing the negative impacts of these disturbances. The Final EIR (section 5.11.7) states that no federally listed or State-listed endangered or threatened plant species occur or have the potential to occur on the Alternative 5B project site and there is no evidence that any protected species are nesting in these five trees as suggested by the commenter. The Final EIR states that these trees *could* support nesting birds. Therefore, the Final EIR proposed Mitigation Measure Alt. 5B– Biological Resources-1 to replace the existing trees at a ratio of five new trees for every one removed. Assuming removal of five trees, the Conservancy would be responsible for replacement and survival of 25 new trees, which results in the long term in a greater amount of tree canopy and potential habitat for nesting birds than is presently available. The EIR also includes Mitigation Measure Biological Resources-4 (Avian Species), Mitigation Measure Biological Resources-7 (Swainson’s Hawk), and Mitigation Measure Biological Resources-8 (Raptors/Migratory Birds) requiring preconstruction surveys, providing buffers from breeding/nesting birds, and requiring that tree removal that would disturb breeding or nesting birds shall not take place during the breeding season. The project also includes landscaping the parking areas and portions of the trail with native tree species, which will include Sycamores and other floodplain and riparian species, resulting in a long-term net benefit to the habitat on the project site.

Comments and Question Regarding Comparison of Alternative 1 to Alternative 5B

How far is the nearest existing public transit stop from Alternative 1 and Alternative 5B?

The gate at Alternative 1 (Riverview Dr.) is one mile walking distance from the bus stop; the entrance at Spano Park would be 0.3 miles walking distance from the bus stop.

What would be the added costs of Alternative 1, over and above the costs of the proposed Project or in comparison to Alternative 5B?

The Final EIR review is based on a preliminary design, or approximately 10% design, developed by the City of Fresno and AECOM consultants. This level of design is adequate for CEQA purposes. No formal cost estimates have been developed by the Conservancy’s contractors; none of the contracted services included the development of cost estimates.

A State engineer’s rough estimate of current capital costs for the proposed Project based on the recent completion of the FINS visitor improvements and trail, is approximately \$4 million, including engineering, permitting and construction.

The City of Fresno contracted for the development of preliminary designs for Alternative 5, and a 30% design for Alternative 5B. With the on-site geotechnical testing and other detailed engineering performed for the 30% design, the costs of Alternative 5B were previously estimated to be approximately \$5.2 million. (On review, this estimate included the costs of the proposed staircase and other elements included in the proposed Project, indicating the cost is closer to \$4.0 million.) The estimate includes fill necessary to cover the construction wastes underlying the parking area, but does not

December 13, 2017

Agenda Item: G-1

Page 12

otherwise include the costs of any additional Phase 2 subsurface testing that might be required, additional remediation if necessary, or land acquisition. Given the proposal of the SJRAC, Exhibit 2, these latter costs would not be borne by the Conservancy.

Alternative 1 would add a second entrance facility, second parking area, a half-mile road and parallel separated paved trail, and duplicate many of the amenities required for the proposed Project, as would any of the added access alternatives. Subsequent to the November meeting, the City of Fresno provided an engineer's cost estimate for Alternative 1 based on the conceptual design, with the caveat that the engineering for Alternative 1 is much more preliminary than the engineering for Alternative 5B, therefore any cost estimates are not entirely comparable. The City's estimate is +/- \$2.0 million, not including the costs of any participation in the traffic signal.

Other Comments

One commenter expressed concern at the Board meeting that the Dumna tribe had not been consulted.

In preparing the EIR, the Conservancy's consultants attempted to contact the Dumna Wo Wah Tribal government during their investigation, but no response was provided (see Appendix D of the Cultural Resource Report found in Volume III for the contact log). The Conservancy did not receive a request for consultation from the Dumna tribe or any other tribal representative throughout the course of the project. The NOP was released one year before the effective date of Assembly Bill (AB) 52, which requires a lead agency to consult with a tribe regarding any proposed project subject to CEQA in the geographic area with which the tribe is traditionally and culturally affiliated. The comments received from the Dumna tribe on the Draft EIR resulted in a clarification in the ethno-history text of the Final EIR, redaction of exhibits showing a recorded archeological site, and an additional mitigation measure, Mitigation Measure Cultural Resources-2 which provides for a Native American monitor on-site during specified ground disturbing activities.

Continued Background

The following information is extracted, abbreviated, and modified as needed, from the November 15, 2017, staff report:

Proposed Project

The Conservancy proposes to extend the existing Lewis S. Eaton Trail located in Fresno and operated by the City of Fresno. The first six miles of the Eaton Trail were constructed from 1993-1998 and are operated by the City of Fresno. Another one-quarter mile leading to the Cole Hallowell River Center was constructed in 2004 and is maintained by the River Parkway Trust. In 2007 the Copper River Ranch Development added a half-mile spur connecting the residential area to the trail and is also operated by the City. Other segments of the Parkway multi-use trail have been completed near Riverside Golf Course (City of Fresno) and between the Fish Hatchery and Lost Lake Park (California Department of Fish and Wildlife). The City of Fresno recently completed a count of trail users, and found that during the peak a.m. hour alone there are an estimated 33,000 Eaton Trail users annually. In 2003, the Conservancy and River Parkway Trust purchased the River West Fresno property from the Spano family at a total

purchase price of approximately \$10 million, and the Conservancy and its partners have been working on planning for the trail extension across the property since that time.

The proposed trail extension would connect at the western terminus of the existing trail, pass through an underpass of State Route (SR) 41 located at the Perrin Avenue alignment, and extend approximately 2.4 miles on State-owned land identified as the River West property (291 acres under the jurisdiction of the Conservancy and approximately 167 under the jurisdiction of the State Lands Commission). The trail would end at the western end of the State's property where a staircase would be provided on the bluff to connect River West with the City of Fresno's Spano Park. The proposed Project also includes a public vehicle entrance at the Perrin Avenue alignment, and a parking area for 50 vehicles and three horse trailers, with a restroom and landscaping. The parking area and shallow slope of the multi-use trail would meet Americans with Disabilities Act (ADA) design standards. Pedestrian and bicycle access would be provided at four locations – Perrin Ave., Spano Park, and the W. Riverview Dr. and Churchill Ave. entrances to the existing Bluff Trail. The trail extension would meet the design standards in the Conservancy's San Joaquin River Parkway Master Plan for the planned Parkway-wide multi-use trail. Secondary hiking trails to and along the riverbank are also proposed. See Figure 2-3 following this staff report.

The Final EIR found the proposed Project would result in less than significant impacts to all resources areas, with incorporation of the identified mitigation measures. The proposed Project is consistent with goals, policies, and objectives in the Parkway Master Plan, is located on state-owned land under the Conservancy's jurisdiction, and would provide the fundamental improvements initially planned for the River West Fresno site. The scope of the project was developed over several years, initiated by a conceptual plan presented in 2004 to the Board by the San Joaquin River Parkway and Conservation Trust, refined through a constraints analysis performed by the City of Fresno in 2011, and carried forward by the City of Fresno and the Conservancy in several public workshops.

Staff recommends at the very least the Board approve the proposed Project through approval of Resolution 17-02(PP) and its attachments, if not through approval of either Alternative 1 or Alternative 5B, both of which are inclusive of the proposed Project features.

Action Alternatives

The Final EIR prepared by the Conservancy also studied six action alternatives plus the No Project alternative. Other than the No Project Alternative, which does not meet the most basic project objectives, none of the alternatives would result in fewer environmental impacts than the proposed Project, therefore, none of them is environmentally superior. A chart comparing the environmental impacts of each alternative and the proposed project is included as Table 5.13-1 of the Final EIR. In brief, the comparative impacts of each alternative under consideration for approval at the December 13 Board meeting are as follows:

- Alternative 1, Added Parking, would add a public vehicle entrance from Riverview Drive and a parking area in the middle of the project site to provide more convenient access for residents of Fresno, including disadvantaged communities. The parking area on the floodplain would provide additional ADA-access to the multi-use trail. See Figure 5-1. Traffic volume under Alternative 1 is anticipated to increase at the Audubon Dr./Del Mar Ave. intersection and would add to traffic delays at Del Mar Ave. See Section 5.6 of the FEIR, which concluded that this is a potentially significant impact. This impact could be reduced to less than significant by the City of Fresno constructing and operating traffic

December 13, 2017

Agenda Item: G-1

Page 14

improvements identified in Mitigation Measure Alt. 1-Traffic-1. Because the Conservancy does not have control over this mitigation measure, if it proceeds with this Alternative without waiting for the City to install the signal, there would be a potentially significant adverse traffic impact. It is noted the City of Fresno and County of Fresno oppose Alternative 1 because any action it would take would conflict with a policy in the Fresno City General Plan that favors only pedestrian and bicycle access to the Parkway from Riverview Dr. Despite the significant impact, the Board may approve Alternative 1 (inclusive of the proposed Project) through approval of Resolution 17-02(Alt. 1) and its attachments, which include Findings regarding the traffic impact, a rejection of other alternatives, and a Statement of Overriding Considerations.

- Alternative 5B, North Palm Access, is an off-site alternative that would develop an additional public vehicle entrance located at the northern terminus of Palm Ave., with an access road through Spano Park and descending the bluff, to a parking area on the floodplain below. This alternative is also intended to provide more convenient access for residents of Fresno, including disadvantaged communities. The proposed multi-use trail would be connected to the parking area and to a pathway descending the bluff. The parking area on the floodplain would provide additional ADA-access to the multi-use trail. See Figure 5-13. Spano Park and the bluff face in this location are owned by the City of Fresno. The proposed parking area and trail connections are located on private property that has been offered for sale to the Conservancy at various times in the past. The SJRAC has entered into an option agreement to purchase the property to facilitate the development of Alternative 5B (Exhibit 2). The EIR found that Alternative 5B would require mitigation measures beyond those for the proposed Project to address the potential for exposure to hazardous materials associated with operation of a former landfill, consisting primarily of construction-related wastes in the area below the bluff. These mitigation measures would reduce impacts to a less than significant level. This alternative is supported by the City and County of Fresno. The CEQA analysis of Alternative 5B was paid for by the City of Fresno, although it was developed independently by the Conservancy. The Board may approve Alternative 5B (inclusive of the proposed Project) through approval of Resolution 17-02(Alt. 5B) and its attachments.

Public Participation and Process

The Conservancy has complied with requirements of the CEQA statute and CEQA Guidelines, including but not limited to, releasing a Notice of Preparation and holding a public scoping meeting in June 2014, releasing a Draft EIR for a 45-day public comment period in February 2017, releasing a Partially Revised Draft EIR in August 2017 for a second 45-day comment period, and releasing the Final EIR on Thursday, November 9, 2017. The Conservancy has more than met CEQA requirements to evaluate a reasonable range of alternatives, and found no alternative is environmentally superior to the proposed Project. The public participation process for developing and evaluating the scope and design of the project, and for soliciting comments is described in the November 15, 2017, staff report and in the attached approved Resolution 17-01 certifying the EIR (Exhibit 1).

In total, the Conservancy received approximately 242 comment letters, comment cards, and emails from state and local agencies, organizations, a tribe, and individuals regarding the Draft EIR and Partially Revised Draft EIR. All written comments were responded to in writing in the FEIR Volume II. The bulk of the comments expressed support for or opposition to particular alternatives. Comments most often repeated include, but are not limited to: the Conservancy's ability to acquire private land or access rights (Alternatives 5 and 5B); conformity to the City of

December 13, 2017

Agenda Item: G-1

Page 15

Fresno General Plan (Alternative 1); rights of the public to utilize public roads and easements to access the site (Alternatives 1 and 5); traffic impacts (Alternative 1); equal opportunities for access the project for Fresno residents, including disadvantaged communities (proposed Project and access alternatives); locating the multi-use trail near the river (Alternative 3); and the need to ensure adequate operations and maintenance.

Comments and deliberations at the Board meeting November 15, 2017, are recorded in the submitted minutes.

CEQA Requirements and Process

Certifying the EIR: On November 15, 2017, the Board approved Resolution 17-01, certifying that (a) the Final EIR was completed in compliance with the requirements of CEQA; (b) the Final EIR was presented to the Board and its members considered the information contained in the Final EIR before considering approving the proposed Project or alternatives analyzed in the Final EIR; and (c) the Final EIR reflects the Conservancy's independent judgment and analysis (Exhibit 1).

Approval of the Project: The second discretionary decision by the Board involves approving the proposed Project or an alternative, including incorporating the mitigation measures identified in the Final EIR through adopting a Mitigation Monitoring and Reporting Program (CEQA Guidelines § 15091(d)). When a Final EIR identifies one or more potentially significant environmental impacts, the approving agency must also make specific findings regarding each of those impacts, accompanied by a brief rationale (CEQA Guidelines § 15091(a)). One of the permissible findings is that changes or alterations have been incorporated into the project (e.g. mitigation measures) which avoid or substantially lessen the impact. For the proposed Project, Alternative 1, and Alternative 5B, mitigation measures are recommended in the FEIR. Staff has prepared three alternate documents entitled CEQA Findings of Fact, as an attachment to each resolution to approve the proposed Project or an alternative, so that the Board may find these mitigation measures are required and incorporated into the project to avoid or substantially lessen the impacts to less than significant levels.

If the Board considers an alternative (e.g., Alternative 1) that the FEIR found would result in a significant environmental impact, after consideration of all recommended mitigation measures, the Board must find that mitigation measures or alternatives identified in the Final EIR are infeasible (CEQA Guidelines § 15091(a)(3)). This finding is required because one of the main policies of CEQA is that agencies should not approve projects with adverse environmental impacts if feasible mitigation measures or feasible alternatives can avoid or substantially lessen the impacts (Public Resources Code § 21002). After considering (and rejecting) all potentially feasible environmentally superior alternatives, the agency may proceed with approving a project with significant unavoidable impacts, if it documents in writing the specific economic, legal, social, technological, or other considerations of that proposal that outweigh the remaining significant adverse impacts. This written statement is referred to as a Statement of Overriding Considerations and is included in the Findings of Fact document adopted as part of the resolution and included in the record of the approval. Because the impacts identified for the proposed Project and Alternative 5B can be reduced to less than significant levels with the adoption and incorporation of the recommended mitigation measures, the Findings of Fact prepared by staff (as Attachment A to those resolutions) do not formally reject all other alternatives as infeasible and do not include a Statement of Overriding Considerations. For Alternative 1, the EIR found a significant traffic impact that requires a traffic signal to be installed by the City of Fresno to reduce that impact to a less than significant level. The EIR states that

December 13, 2017

Agenda Item: G-1

Page 16

the Conservancy has two options: to condition the approval of the additional entrance at West Riverview Drive upon waiting until the City has installed and is operating an effective traffic control at the Audubon Drive/Del Mar Avenue intersection; or to proceed with the entrance and make the required findings regarding this significant traffic impact, including a statement of overriding considerations, as presented in Resolution 17-02(Alt.1) and its attachments.

Other Policy and Feasibility Considerations

The FEIR analyzes environmental impacts, identifies mitigation measures, and evaluates and compares a reasonable range of potentially feasible alternatives. Beyond the requirements of CEQA, the Board is considering a broad range of issues as it exercises its judgement to select the proposed Project or an alternative. These issues have been discussed in detail at the November 15 Board meeting, and in the Discussion section above. The consulting contract and grant for the environmental review of the project both expire December 31, 2017.

ENCLOSURES:

Exhibit 1, Resolution 17-01 Certifying the FEIR
Exhibit 2, Information Provided by the San Joaquin River Access Corporation
Figures 2-3, 5-1 and 5-13 from the Final EIR

Alternate Resolutions of Approval:

Resolution 17-02(PP) Approving the Proposed Project, including Attachment A(PP) Findings of Fact, Attachment B(PP) Mitigation Monitoring and Reporting Program

Resolution 17-02(Alt. 1) Approving Alternative 1, inclusive of the proposed Project, and Attachment A(Alt. 1) and Attachment B(Alt. 1)

Resolution 17-02(Alt. 5B) Approving Alternative 5B, inclusive of the proposed Project, and Attachment A(Alt. 5B) and Attachment B(Alt. 5B)



